

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09cv387**

**LORRAINE DONIN; BRUCE DONIN;)
and WILLIAM MORELL,)**

Plaintiffs,)

v.)

**EDWARD J. McALOON; and)
PAMELA W. McALOON,)**

**Defendants/Third-)
Party Plaintiffs,)**

v.)

**CURTIS C. CRAWFORD; UTAH)
MOUNTAIN PROPERTIES, LLC;)
and MICHAEL L. RATHBONE, d/b/a)
Michael Rathbone Grading,)**

**Third-Party)
Defendants/Plaintiffs,)**

v.)

**HMH CONSTRUCTION COMPANY,)
INC.; and HARRY HARMON,)**

**Additional Third-)
Party Defendants.)**

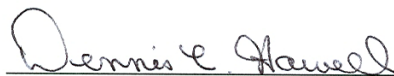
ORDER

Previously, the Court granted Defendants' Motion to Compel and ordered Plaintiffs to produce documents responsive to Defendants' discovery requests, including tax returns in the possession of Plaintiffs. (Order Granting Mot. Compel, May 18, 2011.) In addition, the Court directed Plaintiffs to Show Cause in writing

why the Court should not award Defendants their costs, including attorneys' fees. (Id. at 6.) In response to the Court's Order, counsel for Plaintiffs and Defendants conferred and came to the agreement that Defendants would waive attorneys' fees in exchange for the full production of the records of Eric Zetterholm, the Plaintiffs' accountant. These records are the subject of a pending Motion to Quash [# 114]. Accordingly, Plaintiffs have agreed to withdraw their opposition to the subpoena of Mr. Zetterholm.

Upon a review of the record in this case, the Court finds that an award of costs and fees in this case is unjust. The Court will not require Plaintiffs to pay Defendants' costs incurred in filing the Motion to Compel. Having agreed to withdraw their opposition to the subpoena of Mr. Zetterholm, the Court **DENIES as moot** the Motion to Quash [# 114].

Signed: June 14, 2011



Dennis L. Howell
United States Magistrate Judge

